

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3 No. 1:09-cr-10243-MLW

4

5 UNITED STATES OF AMERICA

6

7 vs.

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9 RYAN HARRIS

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13 For Trial Before:
14 Chief Judge Mark L. Wolf

15 ***Excerpt Transcript:*** Jury Charge

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17 United States District Court
18 District of Massachusetts (Boston.)
19 One Courthouse Way
20 Boston, Massachusetts 02210
February 29, 2012

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1 | P R O C E E D I N G S

2 | *(Excerpt Begins)*

With regard to the first part, the instructions
that would apply in any criminal case. While the law
permits me to comment on the evidence, I choose not to
do that. As I told you at the beginning of the case,
you should not interpret, or to be more precise,
misinterpret anything that I've said and done in the
course of the case or anything that I say to you now as
an indication of what I think your verdict should be.
That's entirely up to you.

20 You must decide whether the government has
21 proven the defendant guilty beyond a reasonable doubt on
22 each particular charge. You'll make that decision based
23 on the evidence and the law as I instruct you. You have
24 to know the law, and it's my duty to teach you the law.

25 I've discussed what I was going to instruct as

1 my thoughts have evolved with the lawyers in the course
2 of the case, but if anything they've said about the law
3 sounds different to you than what I'm saying now, you
4 have to follow the law as I'm describing it now. And
5 similarly, if anything I've said to you in my brief
6 preliminary instructions at the beginning of the case
7 sounds different to you than what I'm telling you about
8 the law now, you must follow the law as I'm describing
9 it to you today.

10 I've worked to try to develop an accurate,
11 complete and balanced description of the law. You
12 should not single out any one instruction or sentence,
13 but consider each of the things I say to you in the
14 context of the others.

15 You are required, by the oath that you've
16 taken, to follow law whether you understand the reasons
17 for it or agree with it. As I said, you took an oath.
18 If the government doesn't prove every essential element
19 beyond a reasonable doubt, you must find the defendant
20 not guilty on a particular charge. If you find the
21 government has proven every element of a charge beyond a
22 reasonable doubt, you must find the defendant guilty on
23 that charge. And I'm going to explain the elements of
24 wire fraud to you.

25 You are required to decide whether the

1 defendant has been proven guilty beyond a reasonable
2 doubt. You should understand, however, and remember
3 that if the defendant is convicted, if he's found
4 guilty, the issue of punishment is solely for the Court,
5 for the judge. It would be improper for you, the jury,
6 to consider or be influenced by what the possible
7 punishment might be.

8 You've heard me say repeatedly that you must
9 decide the case based on the law and the evidence and
10 that means, among other things, that you must disregard
11 any possible bias or prejudice or sympathy that you may
12 have. Both the defendant and the public expect that you
13 will carefully and impartially consider all the evidence
14 in this case, follow the law as I describe it, and reach
15 a just verdict regardless of consequences.

16 As I've told you before, there are certain
17 fundamental principles that apply in every criminal case
18 like this one. First among them is that the defendant,
19 Mr. Harris, is presumed innocent. You'll have the
20 indictment in the jury room. You must remember that
21 that indictment is only an accusation, it's a way of
22 informing the defendant of the charges against him and
23 bringing him to court for this trial. It is not itself
24 evidence or any proof that he's guilty of any charge.
25 In order for you to find the defendant guilty of a

1 charge, the government must prove his guilt on that
2 charge beyond a reasonable doubt.

3 The defendant has no obligation to prove his
4 innocence, he has no obligation to present testimony, he
5 has no obligation to testify himself. Where as here the
6 defendant has chosen not to testify, you may not
7 consider that as an indication that he is guilty. You
8 should not discuss or consider that at all.

9 Now I've said repeatedly that the burden is on
10 the government to prove beyond a reasonable doubt that
11 the defendant is guilty of the charge raised against
12 him. I'm now going to tell you what reasonable doubt
13 means.

14 The burden of proof has nothing to do with who
15 called the witness or offered documents into evidence,
16 It has to do with the quality of the evidence. Proof
17 beyond a reasonable doubt is a strict and heavy burden,
18 but it does not mean that a defendant's guilt must be
19 proved beyond all possible doubt. It does require that
20 the evidence exclude any reasonable doubt concerning the
21 defendant's guilt.

22 A reasonable doubt may arise not only from the
23 evidence produced, but also from the lack of evidence
24 produced by the government. Reasonable doubt exists
25 when after weighing and considering all the evidence,

1 using reason and common sense, jurors cannot say that
2 they have a settled conviction of the truth of the
3 charge.

4 Of course a defendant is never to be convicted on
5 suspicion or guesswork. If, for example, you view the
6 evidence in the case as reasonably permitting either of
7 two conclusions, one that the defendant is guilty as
8 charged and the other that the defendant is not guilty,
9 you will find the defendant not guilty. It is not
10 sufficient for the government to establish a
11 probability, though a strong one, that an element of the
12 offense charged or a fact necessary to prove an offense
13 charged is more likely to be true than not true. That
14 is not enough to meet the burden of proof beyond a
15 reasonable doubt. On the other hand, there are very few
16 things in this world that we know with absolute
17 certainty and in criminal cases the law does not require
18 proof that overcomes every possible doubt.

19 So concluding my instructions on the burden then,
20 I instruct you that what the government must do to meet
21 its heavy burden is to establish the truth of each part
22 of each offense charged by proof that convinces you and
23 leaves you with no reasonable doubt and therefore
24 satisfies you that you can, consistent with your oath as
25 jurors, base your verdict upon it. If you find a

1 particular charge against the defendant has been proven
2 beyond a reasonable doubt, you will return a verdict of
3 guilty on that charge. If on the other hand you think
4 there is a reasonable doubt about whether a defendant is
5 guilty of a particular offense, you must give the
6 defendant the benefit of the doubt and find the
7 defendant not guilty of the offense.

8 Now I have said that you have to decide the
9 facts based on the evidence. The evidence has come to
10 you in three forms. As I predicted, in the form of
11 testimony, in the form of exhibits that have been
12 admitted into evidence and which you'll have in the jury
13 room, and in the form of stipulated facts, facts that
14 the parties agree are true and you may accept as true.
15 As the jury you're the judges of the facts, you decide
16 if the facts are proven, you decide what inferences to
17 draw from those facts, you decide the credibility of the
18 evidence that's been presented.

19 With regard to all of the evidence, you can
20 accept -- with regard to each piece of evidence, you can
21 -- or each witness's testimony, you can accept all of
22 it, you can disbelieve it and reject all of it, or you
23 can believe part of it and disbelieve another part of
24 it. And once you decide what's true, you decide what
25 weight to give to that evidence.

1 In considering the evidence, you may draw
2 reasonable inferences from the facts proven. I told you
3 before that you need to put aside any possible bias,
4 sympathy or prejudice you may have, but you're not to
5 put aside your common sense. You're expected to bring
6 together your common sense and serve somewhat as the
7 common sense of the community in this case.

8 Facts can be proven by both direct and
9 circumstantial evidence. Direct evidence is the
10 testimony of someone who asserts actual knowledge of the
11 facts, someone who says "I was there, this is what I saw
12 and this is what I heard." Circumstantial evidence is
13 proof of events or circumstances on the basis of which
14 you, based on your common experience, may infer the
15 existence or nonexistence of a fact.

16 And looking out the window I think it's timely
17 to remind you of the example I gave you at the beginning
18 of the case to explain what circumstantial evidence is,
19 and I'll elaborate it a bit. Because remember I told
20 you that while circumstantial evidence may sound like
21 some complicated legal concept, it's really something
22 you do, reasoning by circumstantial evidence, every day.

23 So if you were to go to sleep tonight and the
24 ground were green in front of your home and you woke up
25 tomorrow morning and there was 6 inches of snow there,

1 you would infer that during the night while you were
2 sleeping it snowed, although you didn't see it and
3 nobody told you that. And if you looked out into the
4 snow and saw there were footsteps leading to your front
5 door, you would infer that during the night, while you
6 were sleeping, after it snowed, somebody walked to your
7 front door. And if the newspaper was at the end of the
8 footsteps, you would infer that during the night, while
9 you were sleeping, after it snowed, somebody delivered
10 the newspaper. That's reasoning from circumstantial
11 evidence.

12 Direct and circumstantial evidence have equal
13 standing in the law, you decide what weight to give to
14 each. No greater certainty is required of
15 circumstantial evidence than of direct evidence. You
16 should consider all of the evidence and give each item
17 the weight you think it deserves.

18 Certain things are not evidence. Anything you
19 saw or heard outside the railing there in this courtroom
20 is not evidence and you should disregard it. If an
21 answer was given to a question and I later said that it
22 was inadmissible and directed you to disregard it, you
23 should disregard the answer. If I allowed any evidence
24 in for only a limited purpose, you should use it only
25 for that limited purpose.

1 As I've told you several times, anything the
2 lawyers say is not evidence. Their opening statements,
3 their questions, their closing arguments is not evidence
4 -- are not evidence. And if in these closings that we
5 just heard the lawyer's memory of the evidence differs
6 from yours, individually and collectively, then you
7 should rely on your memory of the evidence rather than
8 what the lawyers said.

9 In the course of the case, as in every trial
10 there have been some objections, but actually not that
11 many while you've been sitting there, and it's proper,
12 as I told you, for a party to object. It provides me an
13 opportunity to decide whether the information at issue
14 is sufficient, relevant -- sufficiently relevant and
15 reliable to come to your attention under the rules of
16 evidence.

17 You shouldn't draw any inferences or
18 conclusions from the objections or my rulings. If I
19 sustain the objection, you should -- if I sustain the
20 objection, you should disregard any answer that might
21 have been given. If I overrule the objection, you
22 should treat the answer like any other answer. And as I
23 said, if I gave any limiting instruction, you should use
24 the testimony only for that limited purpose.

25 I told you in my preliminary instructions that

1 when we got to this point, since you're going to have to
2 judge the credibility, the believability of some
3 evidence of the witnesses, I would give you sort of a
4 common-sense checklist of things that you might want to
5 think about in judging credibility or believability.

6 You should treat the testimony of a law
7 enforcement officer like the testimony of anybody else
8 and not assume that he's more likely or less likely to
9 be telling the truth because he's employed in law
10 enforcement.

11 With regard to all the witnesses, you may want
12 to ask yourself did he or she seem honest? Is what the
13 witness said reasonable? Did it make sense? Did the
14 witness have a reason not to tell the truth? Did the
15 witness have a personal interest in the outcome of the
16 case? Did the witness have a relationship to either
17 side of the case? Did the witness have a reason to be
18 prejudiced against or hostile to any party? Will the
19 witness be affected by the verdict? Did the witness
20 seem to have a good memory? Did the witness have a good
21 opportunity to observe what he or she testified to? Did
22 the witness answer the questions directly or not? Did
23 the witness's testimony differ from the testimony of
24 other witnesses? Was that testimony supported or
25 contradicted by other evidence in the case?

1 Inconsistencies between two witnesses, or
2 several witnesses, and inconsistencies in two statements
3 by the same witness may or may not bear on credibility.
4 Sometimes they're just innocent differences in
5 perception and memory. It's also possible that
6 somebody's contriving or making up their testimony. So
7 in judging any inconsistencies you may want to consider
8 whether the witness had a motive to lie, did the
9 inconsistency concern an important matter or an
10 unimportant detail, did it seem to be an innocent error
11 or an intentional lie?

12 You heard some testimony that witnesses made
13 statements before trial. You can consider those
14 statements made before trial in deciding whether to
15 believe the trial testimony you heard from any witness.
16 You can decide if the prior statement was inconsistent
17 with the trial testimony, and if so, decide whether it
18 affects the believability of the testimony you heard at
19 trial. If the prior statement was under oath, you may
20 consider it for the truth of the matter discussed
21 previously under oath and for the credibility of the
22 trial testimony and any evidence you heard or statements
23 that the defendant made before the trial you may
24 consider for the truth of what you find was said.

25 Now, you heard the testimony of some witnesses

1 who were given immunity by court order or by an
2 agreement with the government. Those agreements in the
3 court order provide that no testimony given by the
4 witness will be used against him or her, directly or
5 indirectly, except in a prosecution for perjury or if he
6 or she testifies falsely.

7 You're instructed that the government's
8 entitled to present the testimony of an immunized
9 witness. Some people who are given immunity are
10 entirely truthful when testifying. However, the
11 testimony of such a witness should be examined by you
12 with greater care than the testimony of an ordinary
13 witness. You should scrutinize it closely because such
14 a witness may have a motive to falsify by making up
15 stories or exaggerating what others did because he or
16 she wants to avoid getting prosecuted. As with all the
17 evidence, in deciding whether some or all of the
18 testimony of a witness with immunity was truthful, you
19 should consider, among other things, whether it was
20 contradicted or corroborated, supported, by other
21 evidence in the case. As I said, you should scrutinize
22 the testimony of an immunized witness with great care
23 and rely on it with caution. If after doing so you find
24 some or all of his testimony to be true, you should give
25 it such weight as you believe it deserves.

1 You also heard some testimony that some of the
2 witnesses met before or during the trial with the
3 government lawyers. It's permissible for the
4 government, and indeed any lawyer, to discuss testimony
5 with a prospective witness. However, you can consider
6 those meetings in evaluating the testimony you heard and
7 deciding whether the witness was biased or influenced by
8 discussions with the lawyers.

9 You also heard testimony from some witnesses
10 who were allowed to give opinions and explain things not
11 specific to this case, relevant, but not specific to
12 this case, but based on a particular experience or
13 expertise that they have. And they were allowed to give
14 that evidence to help you, the jury, but not to replace
15 your judgment. So with regard to the people who
16 testified as experts, you should consider their training
17 and experience, you should consider the reasons for the
18 opinions or explanations they gave you and the facts on
19 which the witness relied. If any of the facts on which
20 the witness relied are not proven, you should disregard
21 any opinion to the extent it's based on unproven facts.
22 And with experts, like any witness, you can accept or
23 reject opinions in whole or in part.

24 So that completes the first part of my
25 instructions, those that apply in a criminal case. Now

1 I'm going to give you the instructions that apply to the
2 particular charges in this case.

3 There are now eight charges of wire fraud for
4 you to decide. You're not being asked to decide whether
5 the government has proven Count 1, the conspiracy charge
6 that was read to you at the beginning of the trial and
7 that charge has been removed from the indictment with a
8 superseding indictment that you'll have in the jury
9 room. Now it's shorter.

10 As I've told you, the indictment is only an
11 accusation, it's not evidence or proof that a defendant
12 is guilty of any or all of the wire charges. The
13 defendant has pled not guilty, therefore the government
14 must prove he's guilty beyond a reasonable doubt to
15 achieve his conviction on a particular charge.

16 Each count alleges a separate crime and you
17 should decide and consider each count separately and
18 return a separate verdict for each. Unless I gave you a
19 limiting instruction in the course of the trial, you may
20 consider all of the evidence in deciding each count.
21 And if I did give you a limiting instruction, you have
22 to follow it. As to each separate charge you must
23 determine whether the government has proven the
24 defendant guilty beyond a reasonable doubt.

25 Evidence provided by or concerning other people

1 may be considered by you. However, the fact that
2 another person pled guilty to committing some other
3 crime himself is not evidence or proof that Mr. Harris
4 is guilty of any of the wire fraud charges in this
5 case. Your verdict should be based solely on the
6 evidence or lack of evidence concerning Mr. Harris, and
7 in accordance with my instructions, and without regard
8 to the guilty pleas of others. So that means you can
9 consider the testimony of others, but the fact, as I
10 said, that some of the witnesses pled guilty to
11 something, is not itself, the guilty pleas themselves
12 are not evidence that Mr. Harris is guilty of the
13 charges in this case.

14 Depending on your view of the evidence, you may
15 find Mr. Harris not guilty on all eight charges, you may
16 find him guilty on some of the charges and not on other
17 charges, or you may find him guilty on all of the
18 charges. That depends on your view of the evidence.

19 You'll see the indictment charges that certain
20 alleged crimes were committed on or about certain
21 dates. Although it's not necessary for the government
22 to prove beyond a reasonable doubt that the crimes were
23 committed on a particular day, it does have to prove
24 that the crime was committed at a time reasonably near
25 the dates alleged in the indictment.

1 Now, as I've said, each of the remaining counts
2 charges Mr. Harris with committing wire fraud. And so
3 the charging language begins in Paragraph 2, which is on
4 the first page of the indictment you'll have in the jury
5 room, and it says: "On or about the dates set forth
6 below, in the District of Massachusetts and elsewhere,
7 Ryan Harris, having knowingly devised a scheme to
8 defraud and to obtain money and property by means of
9 false" -- I'm sorry, "by means of material false and
10 fraudulent pretenses, representations and promises,
11 transmitted and caused to be transmitted in interstate
12 commerce wire communications, including writings,
13 signals and sounds, for the purpose of executing the
14 scheme to defraud and aided and abetted others in doing
15 so as set forth below."

16 So then Count 1 charges that in approximately
17 2005, Nathan Harris accessed the Internet from
18 Massachusetts and downloaded Harris's Sigma cable modem
19 hacking product. Essentially it's alleged that was in
20 furtherance of the alleged scheme to defraud.

21 Count 2 charges that in about 2007 Hanshaw --
22 another wire fraud was committed for which Mr. Harris is
23 allegedly responsible because Hanshaw, it's charged,
24 accessed the Internet from Massachusetts and downloaded
25 Harris's Sigma X cable modem hacking product.

1 Count 3 charges that on or about January 15th,
2 2007, in furtherance of the scheme Hanshaw accessed the
3 Internet from Massachusetts using Harris's products and
4 a cloned MAC address and participated in an on-line chat
5 discussing his hacking activities.

6 Count 4 charges that on December 5, 2007, or
7 about December 5th, 2007, Hanshaw accessed the Internet
8 from Massachusetts using Harris's products and cloned a
9 MAC address and participated in an on-line chat
10 discussing his hacking activities.

11 Count 5 charges that on or about June of 2008,
12 Mr. Larosa, Jose Larosa, accessed Harris's TCNISO
13 website from Massachusetts and bought a modified cable
14 modem and ancillary products in furtherance of the
15 scheme.

16 Count 6 charges that on or about July of 2008,
17 Larosa accessed the Internet from Massachusetts using
18 Harris's products and a cloned MAC address and obtained
19 free Internet access.

20 Count 7 charges that William Madeira accessed,
21 on about June of 2009, Harris's TCNISO website from
22 Massachusetts and bought a modified cable modem and
23 ancillary products.

24 And Count 8 charges that in furtherance of the
25 scheme, about July of 2009, Madeira accessed the

1 Internet from Massachusetts using Harris's products and
2 a cloned MAC address and obtained free Internet access.

3 For present purposes you don't have to try to
4 memorize all of that. You're going to have it in the
5 jury room with you.

6 So all of the charges are charges of wire
7 fraud. Now I'm going to tell you what the government
8 has to prove, beyond a reasonable doubt, to prove a wire
9 fraud charge.

10 To prove -- and I'm going to read this to you
11 and part of the reason I'm going to read it to you is
12 you may come back and ask me to tell you again and it's
13 important that I be able to tell you the same thing, if
14 you do that, so. It's not all that long. But anyway.

15 To prove that the defendant committed a wire
16 fraud charge in this case the government must prove the
17 following things beyond a reasonable doubt. First,
18 there was a scheme substantially as charged in the
19 indictment to defraud or obtain something of value from
20 internet service providers by means of false or
21 fraudulent pretenses. Second, that the defendant
22 knowingly and willfully participated in the scheme with
23 an intent to defraud. And third, on or about the dates
24 alleged, the defendant transmitted or caused to be
25 transmitted an interstate wire communication for the

1 purpose of furthering the scheme.

2 If the government fails to prove any of these
3 elements beyond a reasonable doubt, you must find the
4 defendant not guilty on the count you are considering.
5 If the government proves all of these elements beyond a
6 reasonable doubt with regard to a particular count, you
7 must find the defendant guilty of that charge.

8 As I said, the first thing that the government
9 must prove beyond a reasonable doubt is that the
10 defendant participated in a scheme to defraud that
11 involved material false or fraudulent pretenses. A
12 scheme is a plan or a course of conduct. The term
13 "defraud" means to deprive somebody of something of
14 value by means of deception or cheating. A scheme to
15 defraud ordinarily includes a desire to bring about some
16 gain or benefit for oneself or some other person or a
17 desire to cause some loss to somebody else. The term
18 "false or fraudulent pretenses" means any intentional
19 material false representation or omission, including
20 material direct false representations and the deliberate
21 concealment of material facts. A fact is material if it
22 has a natural tendency to influence or is capable of
23 influencing whoever or whatever is making a particular
24 decision.

25 In essence, in this case the government must,

1 among other things, prove beyond a reasonable doubt the
2 existence of a scheme to deprive internet service
3 providers of payment for internet service based on
4 intentional material false representations or omissions
5 relating to a particular device concerning whether that
6 device was authorized to receive such service. While
7 the government must prove that the scheme alleged in the
8 indictment existed, it does not have to prove that it
9 succeeded.

10 The next thing that the government must prove
11 beyond a reasonable doubt is that the defendant
12 participated in the alleged scheme knowingly and
13 willfully and with intent to defraud. The government
14 does not have to prove that the defendant originated the
15 alleged scheme, it only has to prove that he
16 participated in it with the required knowledge and
17 intent to defraud. To act knowingly means to act
18 intentionally and not by accident or mistake. To act
19 willfully means to intentionally do something known to
20 be unlawful. An intent to defraud means to act
21 knowingly and with specific intent to deceive and for
22 the purpose of causing some financial loss or to obtain
23 money for the defendant or someone else or for both of
24 these purposes.

25 It would not be enough to prove wire fraud for

1 the government to prove only that Harris sold one or
2 more products that he knew would be used to commit a
3 crime. However, the nature of any product sold and any
4 knowledge that Harris had as to how it would be used are
5 evidence that you can consider, along with all the other
6 evidence, in deciding whether the government has proven
7 any or all of the wire fraud charges in this case.

8 Now, it may be hard to get into somebody's
9 head, so intent or knowledge need not be proven by
10 direct evidence. Rather circumstantial evidence, as
11 well as direct evidence, may be important in determining
12 the defendant's state of mind. In determining what the
13 defendant knew or intended at a particular time you may
14 consider any statements made or anything done or not
15 done by the defendant and all the other facts and
16 circumstances proven by the evidence.

17 You may infer, but you certainly are not
18 required to infer, that a person intends the natural and
19 probable consequences of acts knowingly done or
20 deliberately not done. It's entirely up to you,
21 however, to decide what facts were proven by the direct
22 and circumstantial evidence.

23 The last thing that the government must prove
24 beyond a reasonable doubt is that on or about the date
25 alleged in the indictment, for the count you are

1 considering, the defendant transmitted or caused to be
2 transmitted an interstate wire communication in
3 furtherance of the alleged scheme. The use of the
4 internet to send a message, such as an e-mail or a
5 communication to a website, may be a wire
6 communication.

7 An interstate wire communication is a wire
8 communication from one state to another. The wire
9 communication does not have to be essential to the
10 scheme or itself be fraudulent. However, it must be
11 made as part of an attempt to execute the scheme or
12 accomplish one of its goals. To prove that the
13 defendant caused a particular interstate wire
14 communication to occur, the government does not have to
15 prove that he sent the wire communication himself. It
16 would be sufficient if the government proved beyond a
17 reasonable doubt that he knew that the use of interstate
18 wires would follow in the course of the scheme or that
19 it was reasonably foreseeable that the interstate wires
20 would be used as a result of his actions. It is the use
21 of the interstate wires generally rather than the
22 specific wire transmission that is charged that must be
23 proved to have been reasonably foreseeable as a result
24 of the scheme.

25 Therefore, if it is proven that Harris

1 participated in the alleged scheme and did something
2 relating to it which he knew or should have reasonably
3 foreseen would result in interstate wire transmissions
4 being used in an effort to execute the scheme or
5 accomplish one of its goals, you may find the use of the
6 interstate wire communication element to be proved.

7 As I said earlier, if you find that the
8 government has proven beyond a reasonable doubt every
9 essential element of wire fraud concerning the
10 particular count you're considering, you shall find the
11 defendant guilty on that count. If the government has
12 failed to meet that burden, you shall find the defendant
13 not guilty on that count. As I also said earlier,
14 depending on your view of the evidence, you may find the
15 defendant not guilty on all counts, guilty on some but
16 not all counts, or guilty on all counts.

17 Now I'm going to move to the third part of
18 these instructions which relate to your deliberations.

19 When we finish -- when I finish these
20 instructions, relatively soon, you'll go back to the
21 jury room, and I hope they'll be enough time for this,
22 but the first thing you should do is choose a
23 foreperson, somebody to moderate your discussions and
24 communicate with me on your behalf.

25 Then, either today or tomorrow, we're going to

1 be guided by your preferences from now on, you should
2 engage in rational discussion by all jurors for the
3 purpose of reaching a unanimous verdict. Every juror
4 should decide the case for himself or herself in the
5 context of the evidence and the law giving proper
6 consideration to the views of your fellow jurors. You
7 should reconsider your initial views and change them if
8 you're persuaded that they're not right, but you
9 shouldn't abandon your views solely for the sake of
10 reaching a unanimous verdict.

11 You should discuss the case only when you're
12 all together so everybody gets the benefit of everybody
13 else's view. And your verdict must be unanimous on each
14 count. You're going to have a very simple verdict form
15 that says: "We the jury find the defendant, Ryan
16 Harris, blank on Count 1, blank on Count 2." And when
17 all twelve of you agree, the foreperson will write what
18 you agree, guilty or not guilty on Count 1, for each of
19 the eight Counts.

20 If you need to communicate with me, the
21 foreperson should write a question or a communication
22 and sign it, but at no time, until you have a unanimous
23 verdict, should you send me any note that indicates what
24 you've already decided or how you're divided on
25 anything. We're not entitled to know that until you've

1 reached unanimous verdicts on all counts.

2 All right. May I see counsel at sidebar,
3 please.

4 (***Excerpt Ends***)

5

6 C E R T I F I C A T E

7

8 I, RICHARD H. ROMANOW, OFFICIAL COURT REPORTER,
9 do hereby certify that the forgoing transcript of the
10 record, of the aforementioned ***excerpt***, is a true and
11 accurate transcription of my stenographic notes before
12 Chief Judge Mark L. Wolf, on February 29, 2012, to the
13 best of my skill and ability.

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16 /s/ Richard H. Romanow 03-06-12

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18 RICHARD H. ROMANOW Date

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